### IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GOOGLA ATLANTA DIVISION

Monty J. McallistER Petitioner

THE STATE OF GEORGIA
GWINNETT COUNTY SUPERIOR
COURT, GWINNETT DEPORT
MENT OF TREASURY JUDGE
TIMOTHY HOMIL, DISTRICT
ATTOMEY ALABI ANDREAGE
GWINNETT COUNTY POLICE DEPORT
MENT ET. AL RESPONDENTS

28 USC\$ 2241 HABEAS CORPUS CAFN:

> FILED IN CLERK'S OFFICE U.S.D.C. - Atlanta

MAR - 3 2017

JAMES N. HATTEN, Clerk

By: Charles Control

1:17-CV-0812

### WRITOF HABEAS CORPUS 28 USC \$ 2241

Comes now Monty Mcallister the Petitioner Pursuant to 28 USC\$ 2241 under the Provisions Setforth under Morgan v. Thomas 321 F. Supp 565 (1970) and Files this Writ of Habras Corpus As to The Release of the Illegal Custody and Detention of his Property Currency in the Amount of \$3.700.00 with Interest. Penalties and Dollars. As this Can be Construted As Relief under 42 USC\$ 1983, the defendants

Moves Plus vant to the All Writes Act 28 USCS 1651 & 1652 As to Return of his Ill-EBAL Seized Property in the Custody and being Illebally Restrained by the Defendants in violation of the Due Process Clause

### STATEMENT OF FACTS

AS STATED IN (DOC # 2) See: Attached filed Docketed Motion in Case 09-B-00719-8, the facts stated here in are TRUE. A hearing washeld Inward 27, 2017, in the GwiA Nett Superior Court (See: DOC#3). On January 27, 2017, the STATE Repersented by District Attorney ANDREA ALABI, Prod-LICED NO Evidence Pursuant to State Law as to Any Legal forfiture by Proceeding by Abandonment or Consfication. Jidge HAMIL under the Guise of Deception said I was not in the Right Court but Continued to ASK Me what I wanted. The Return OF MY Property with interest, femilies and Damages."The defendants are now in Illebal Custody and Possession OF MY Pro-Perty without due Process which is Action-

## able for Release under 28USC\$ 2241.

### LEGAL ARBUMENT & GROUNDS FOR Relief

Bround one: IlleBAL Forfiture without DUE Process.

Supporting Facts: My Property has been illegally Seized and Detained in the Custody of the defendants without due Process. The Custody or Restraint is Now Confered to envoke Habeas Corpus Relief.

Ground TWO: Deprivation and Illebal Seiz-URE without Due Process.

SUPPORTING FACTS: The Property Now in the Ill-EBAL Custody of the Defendants Violates The RIGHTS Guaranteed under the 4th and 14th Amendment to the United STATES Constitution.

Ground Three: Deprivation of Property by Conspiratorial Means Denial Too Access too the Courts Exhaustion of STATE Remedies Supporting Facts: The Defendants have Deprived Me OF My Property in Violation OF the 14th Amendment, Now Purposely denying Me Access too the Court Denying Me Governmental Redress and State exhaustive Procedures, Interference by the Defendants by deception and Maffeosonce

## RELIEF TO be Branted

A EVIDENTIARY Hearing is ASK to be Granted AS to Release of the Illegal Dustody and Detention of My Property with Interest, Cost, and Damages in the Amount. OF 150,000.00 Dollars.

This 24th day of February 2017

CC: ANDREA ALABI DISTRICT ATTOMESS OFFICE 75 Langley Drive Lawrence ville, BA. 30045 Respectfully Submitted Montry J. Mcallister

Monty J. Mcallister COASTAL STATE PRISON PO. BOX "7150 Garden City, GA. 21418

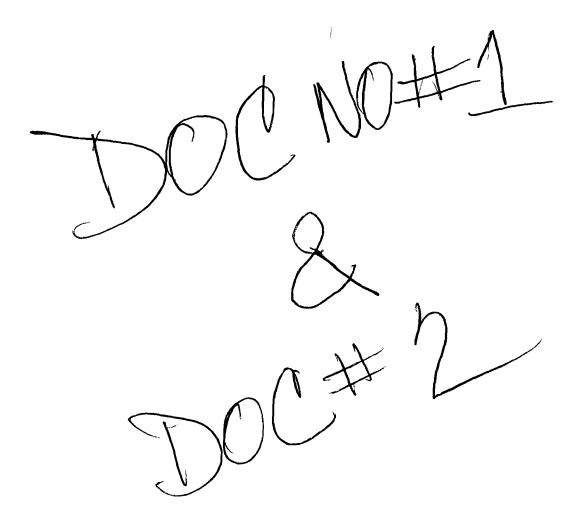
### CERTIFICATE OF SERVICE

I Monty J. Mcallister Declare I have Served the Respondents with ATTUR and Correct Copy of this Writ of Habras Corpus by US Mail Addressed TO:

> ANDREA ALABI DISTRICT ATTOMEYS OFFICE 75 Langley DRIVE Lawrenceville, GA. 30045

This 24"day of February 2017.

Montes Mcallister Prose



# IN THE SUPERIOR COURT OF GWINNETT COUNTY STATE OF GEDAGIA

STATE OF GEORGIA

.VS.
Monty McAllister
AKA Michael D. RAdford JR.
Defendant

CAFN: 09-B-00719-8

"MOTION"

TERN PREBIGAÇÃO

RETURN OF PROPERTY UNDER E CONVERSION PURSUANT TO O.C.G.AS 17-5-54 (9)(1)

COMES NOW MONTY MCAllister, the defendant in Properson IA and Moves, this Honorable Court Pursuant to O.C.G. A\$ 17-5-54(9)U). To Return his Property in the Custody of the Ewinnett County Police Department and the State of Georgia. The defendant supports his Motion with the Following Facts to WIT:

### STATEMENT OF FALTS

On December 18th 2008, IN The Jurisdiction OF Gwinnett County, Georgia the defendant was detained on Pleasent HIII ROAD by the Gwinnett County Police Department The defendant was then Arnested After his brief detention and Booked into the Gwinnett Clanty Detention Center on the Charbes of Ficticials I Deptification, Biving a False name. Marijuana Possession ect. Because there was AN Open Federal Probation violation hold on the defendant he was held until A hearing was had Fortrans-FER OF CUSTODY. Retnieved From the defendant 3,700,00. AFTER Going before the Jul-GE and released in the custody OF the US. MarsHAlls. The Judge ordered the Return OF his Property and Currency. The Jail did not Return his Property and Transfered the defendants custody over to the US. Marsh alls without his Money as ordered by the JUDGE. The defendant ATTEMPted TO Retrieve his Money but Continues to be Restected without Due Process.

## LEGAL ARGUMENT & CITATION OF AUTHORITY

O.C.G. AS 17-5-54 COXI) States when Law enforcement ALENCY ASSUMES CUSTODY OF ANY Personal Property which has been Seized once A Final JUDGEMENT or disposition is entered

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the from the defendant will be return-ED to It's RIGHTFUL Owner. AS in the INSTANT Case At hand and by the Transcript. his Property was ordered Returned by the Judge January OF 2009 and the Case was disposed of and the STATE diliberately Fail-ED to return his Property upon Transfer of his Custody into Federal Authorities Custody. The STATE has not Notified the de endant by due Process OF ANY Forfetore UNDER O. C. G. AS 16-13-49 (0) or Given Notice by due process that his Property is subject to the Provisions Setforth Under O. C. G. AS 17-5-54 Cd). The Defend ant is the rightful owner of the currend IlleBALLY TAKEN and NOW in Conversion OF the STATE. See: LINDSEY V. STOREY 936 F. 2d 554,561(11th CIR 1991) Balabin V.Scully 606 F. SUPP at 182 Conversion suits Can be brought under STATE COURT OF Claims Act. The defendant Now Seeks the Courts Intervention of the veturn of his Money before Instituting Civil Actions in The Same Action.

## CONCLUSION

The defendant Praxs that his Money be returned with undue haste Pursuant To the Provisions of STATE LAW O. C.G. AS 17-5-54 (a)(1).

This 6th day OF SEPTEMBER 2016.

CC. SAMUELS. OLEAS
ATTORNEY BENERAL\_
40 CAPITOL SOUARESWI
ATLANTA, CA. 30334

BESPECIFULLY Forwarded
Mondy J. M. allistes

Monty J. McAllister Coastal State Prison PO. Box 7150 Garden City, GA. 31418



## IN THE SUPERIOR COURT OF GWINNETT COUNTY STATE OF GEORGIA

STATE OF GEORGIA

CASE NO. 09-B-0719-8

v.

MONTY MCALLISTER a/k/a MICHAEL D. RADFORD, JR.

#### **RULE NISI**

Defendant's Motion for Return of Property (\$3,700) in the above-styled matter will come before this Court for a hearing at 9:00 A.M. on the 27th day of January, 2017, in Courtroom 2-B of the Gwinnett Justice and Administration Center. Let all interested parties be and appear before this Court on said date to show cause why the relief requested should not be granted.

IT IS SO ORDERED this 29 day of November, 2016.

R. TIMOTHY HAMIL, Judge Gwinnett Superior Court

Original:

Clerk of Court

cc:

Ms. Andrea Alabi, Assistant District Attorney

Mr. Anthony Volkoday, Assistant District Attorney

Mr. Ryan Fisher, Assistant District Attorney

Mr. Monty McAllister, Defendant pro se

Ms. Pamela Schultz, Legal Assistant

Mr. Adam McCord, Felony Probation

#### CERTIFICATE OF SERVICE

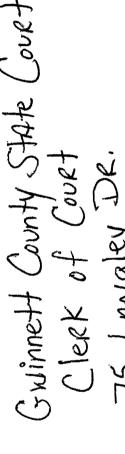
THIS IS TO CERTIFY THAT A TRUE AND CORRECT COPY OF THE WITHIN AND FOREGOING DOCUMENT(S) HAVE BEEN SERVED UPON THE PARTY(S) BELOW, HAVING BEEN DEPOSITED IN THE UNITED STATES MAIL IN A PROPERLY ADDRESSED ENVELOPE WITH ADEQUATE POSTAGE THEREON, TO:

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THIS THE	26th DAY OF September,	20.16.		
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Monty MISTAILISTER #1001422597 Coastal State Prison P.O. Box 7150 GArden City, GA 32418